

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RICHARD DALE HELMS, SR.,	:	
Plaintiffs,	:	
	:	
v.	:	CIVIL ACTION NO. 23-CV-2192
	:	
WILLIAM HAYES, et al.,	:	
Defendants.	:	

ORDER

AND NOW, this 15th day of June, 2023, upon consideration of Richard Dale Helms, Sr.'s Motion to Proceed *In Forma Pauperis* (ECF No. 4), Prisoner Trust Fund Account Statement (ECF No. 3), and *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Richard Dale Helms, Sr., #HR-1939, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Superintendent of SCI Phoenix or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Helms's inmate account; or (b) the average monthly balance in Helms's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Helms's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Helms's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of SCI Phoenix.

4. The Clerk of Court is **DIRECTED** to **ADD** the following Defendants to the docket: (a) Sergeant Hamaday; (b) Sergeant Maur; (c) J Block Unit Manager J. Wychunis; and (d) Correctional Officer Ross.

5. The Complaint is **DEEMED** filed.

6. Helms's Complaint is **DISMISSED** for the reasons stated in the Court's Memorandum as follows:

- a. Helms's federal claims brought pursuant to 42 U.S.C. § 1983 are **DISMISSED WITH PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii); and
- b. Helms's state tort claims are **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction. Helms is not given leave to file an amended complaint in this Court but this Order does not preclude him from filing claims in state court based on his loss of property.

7. The Clerk of Court shall **CLOSE** this case.

BY THE COURT:

/s/ Juan R. Sánchez
JUAN R. SÁNCHEZ, C.J.